

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 N. 5<sup>th</sup> STREET

KANSAS CITY, KANSAS 66101

02 NOV 26 AM 9:25

ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF )

FEEDERS GRAIN AND SUPPLY, INC., )

RESPONDENT )

Docket No. FIFRA-07-2001-0093

) CONSENT AGREEMENT AND  
) FINAL ORDER  
)

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on or about September 26, 2001, pursuant to § 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. §136l, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant" or "EPA") issued a "Complaint and Notice of Opportunity for Hearing" to Feeders Grain and Supply, Inc. (hereinafter referred to as "Respondent" or "Feeders Grain").

The Complaint charged Respondent with violating §§ 12(a)(1)(A), 12(a)(1)(E), and 12(a)(2)(L) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A), 136j(a)(1)(E), and 136j(a)(2)(L). Respondent was charged with a total of 12 FIFRA violations.

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. The Consent Agreement and Final Order set forth herein below is the result of these negotiations and represents settlement of this Complaint.

CONSENT AGREEMENT

It is hereby agreed, and accepted by Respondent that:

1. This Consent Agreement and Final Order is being entered into by the parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to the issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violations of FIFRA as set forth in the Complaint.

4. Respondent certifies by signing this Consent Agreement and Final Order that to its knowledge it is presently in compliance with FIFRA, 7 U.S.C §136 et.seq., and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection.

7. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

8. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in paragraph 2 of this Final Order.

#### FINAL ORDER

Pursuant to Section 14 of FIFRA, as amended, 7 U.S.C. Section 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

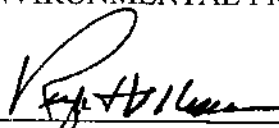
1. Respondent in settlement of the allegations set forth in this Complaint, shall pay by cashier's or certified check, a civil penalty, for the violations cited herein, in the amount of Thirty Five Thousand Dollars ( \$ 35,000.00 ), payable to the "Treasurer, United States of America" and such check shall be mailed to: U.S. EPA-Region VII (Regional Hearing Clerk), C/O Mellon Bank, P.O. Box 360748M, Pittsburgh, Pennsylvania 15251. The payment shall be identified as In the Matter of Feeders Grain and Supply, Inc. A copy of the check shall be forwarded to Rupert G. Thomas, Office of Regional Counsel, Region VII, EPA, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101. In addition to the payment of the aforementioned civil penalty, Respondent agreed to host and pay for a pesticide and chemical (Homeland Security) seminar for dealers and others in Southwestern Iowa. Said seminar will be conducted on or before June 1, 2003. Respondent will coordinate with the EPA-Region VII regarding the detail of the seminar and allow the Agency the opportunity to participate regarding the Homeland Security issues. If the Respondent fails to conduct the seminar as agreed, Respondent agrees to pay ~~an additional civil penalty~~ <sup>stipulated penalty</sup> of \$31,000.00.

RGT  
1/2/02

2. The payment of \$35,000.00 shall be paid on or before 30 days after the effective date of the Final Order (the date by which the payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

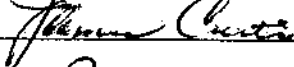
3. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

COMPLAINANT:  
U.S. ENVIRONMENTAL PROTECTION AGENCY

By:   
Rupert G. Thomas  
Attorney  
Office of Regional Counsel

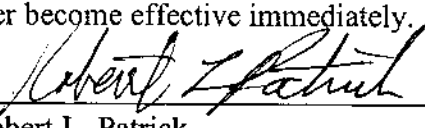
Date: November 14, 2002

RESPONDENT:  
FEEDERS GRAIN AND SUPPLY, INC.

By:   
Title: Pres

Date: 11-18-02

IT IS SO ORDERED. This Order become effective immediately.

  
Robert L. Patrick  
Regional Judicial Officer  
Region VII

Date: November 24, 2002

IN THE MATTER OF Feeders Grain and Supply, Inc., Respondent  
Docket No. FIFRA-07-2001-0093

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Rupert G. Thomas  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:


Keith E. Uhl  
Uhl Law Firm  
3103 Elmwood Drive  
Des Moines, Iowa 50312

Copy by First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

The Honorable Stephen J. McGuire  
Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Dated: 11/26/02

  
Kathy Robinson  
Regional Hearing Clerk